

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

*In re Dealer Management Systems Antitrust
Litigation*, MDL 2817

No. 1:18-CV-864

This document relates to:

ALL PENDING CASES

Hon. Robert M. Dow, Jr.

Magistrate Judge Jeffrey T. Gilbert

NOTICE OF SUPPLEMENTAL AUTHORITY

On October 14, 2019, Defendants CDK Global, LLC and The Reynolds and Reynolds Company filed a Motion to Bar Plaintiffs’ New “Initial Conspiracy” Theory. Dkt. 773 (“Motion”). The Motion is fully briefed and awaiting resolution. *See* Dkt. 775 (Memorandum); Dkt 813 (Dealer Response); Dkt. 820 (Individual and Vendor Response); Dkt. 831 (Reply); Dkt. 898 (Supplement regarding relevant deposition testimony). Defendants write to inform the Court of a recent district court decision that bears on the issues discussed in the Motion. *See In re Packaged Seafood Prods. Antitrust Litig.*, No. 3:15-md-02670-JLS-MDD, Dkt. 2323 (S.D. Cal. Aug. 6, 2020) (“Order”).

The *Packaged Seafood* Court struck portions of the report of the plaintiffs’ damages expert because the expert opined on damages that were “outside the scope of the Complaint.” Order at 3-4. In addition, the Court rejected the argument that the complaint did not have to be amended because the expert’s analysis was “consistent” with the plaintiffs’ theory of the case. Order at 5. Finally, the Court held that “[r]egardless of what Defendants learned from Plaintiffs’ disclosures and testimony, discovery ‘cannot . . . serve as a substitute for adequate pleading.’” Order at 6.

A copy of the *Packaged Seafood* Order is attached hereto as Exhibit A.

Dated: August 12, 2020

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Britt M. Miller, an attorney, hereby certify that on August 12, 2020, I caused a true and correct copy of the foregoing **NOTICE OF SUPPLEMENTAL AUTHORITY** to be filed and served electronically via the court's CM/ECF system. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF system.

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